

February 18, 1993
(updated 11/9/94)
Div. Oil, Gas and Mining

Pagano Clay Project
M/015/062
Chronology

- May 5, 1992 The Division received a Notice of Intention for a Small Mining Operation, from Mr. Harold Marston, personal representative of the Pagano Estate, for the Pagano Clay Project.
- June 8, 1992 The Division sent a completeness letter to Mr. Marston. The letter informed Mr. Marston that a Large Mine Operation (LMO) permit application would need to be filed with this Division before the mine exceeded 5 acres of surface disturbance.
- August 28, 1992 The Division received a copy of a Notification of Trespass on State Lands. The notice was issued to Mr. Harold Marston, representative of the Jay Pagano Estate. The notice was issued by State Lands and Forestry. The notice discussed the lack of formal application and approval for a road crossing state land, leading to a clay mining operation.
- September 3, 1992 Holland Shepherd, Senior Reclamation Specialist for the Division, inspected the Pagano Clay site. His inspection concluded that the mine site disturbance was significantly larger than the 5 acre limit, for a Small Mine Operation. Also, impacts to the Price River had occurred, which had not been permitted through the Div. of Water Rights or the Army Corp. of Engineers. The operator had failed to obtain a Stream Alteration Permit, for constructing a sump in the Price River, and failed to obtain a Temporary Water Right permit for removal of water from the Price River.
- September 9, 1992 The Bureau of Land Management issued a notice of trespass to East Carbon Constructors for unauthorized road work conducted on a county road crossing BLM ground between Highway 6/50 and the Jay Pagano Operation. The road was upgraded to haul clay from the mine. The upgrade, or widening of the road, was performed without approval from the BLM.
- September 11, 1992 A Notice of Noncompliance (NON) was hand delivered to Mr. Harold Marston, during a meeting at the Division's Salt Lake City offices. The Noncompliance notice gave Mr. Marston until

October 15, 1992, to submit a large mine permit application and reclamation surety to the Division for the site. State Lands and Forestry, Water Rights and Army Corp. of Engineers were notified via the NON.

- October 1, 1992 Holland Shepherd spoke with Mr. Marston over the phone. Mr. Marston indicated that he had already started to reclaim the site and that he did not intend to submit a large mine permit application or post a reclamation surety.
- October 6, 1992 The Division hand delivered another letter to Mr. Marston reiterating the permitting and bonding requirements of the NON.
- October 9, 1992 Holland Shepherd conducted a follow-up inspection of the Pagano Clay Operation. The surface disturbance was estimated at approximately seventeen (17) acres, and a \$23,300 reclamation surety was subsequently calculated for reclamation of the mine site. A copy of the inspection report and reclamation estimate was sent to Mr. Marston.
- October 15, 1992 The Division received a telefaxed message from Mr. Marston, requesting an extension of time to meet our permitting requirements, and claiming the existence of extenuating circumstances.
- October 22, 1992 The Division mailed Mr. Marston a certified letter, granting him an extension of the deadline to respond until December 18, 1992. Also as requested, the conditions of the NON were revised to require a detailed reclamation plan in lieu of a complete LMO application. The Division also agreed to re-evaluate the \$23,300 reclamation surety estimate to reflect the recent regrading work performed on the site.
- November 10, 1992 Division staff met with Mr. Marston at the Division to discuss a resolution to the noncompliance situation at the Pagano Clay Project.
- November 13, 1992 The Division sent Mr. Marston another certified letter summarizing the agreements reached during the November 10th meeting. The letter required that the operator submit a reduced reclamation surety of \$3,700 to only cover seeding, mulching and fertilization costs. This agreement was conditioned on the completion of all reclamation by December 18, 1992.

December 2, 1992	Holland Shepherd again inspected the mine site. Regrading and contouring work had been performed, except for a section of the access road in the southwest portion of the site, covering approximately 2 acres. Seed, mulch and fertilizer application was to be applied by the end of the week.
December 8, 1992	Another letter was mailed to Mr. Marston reminding him of the pending December 18, 1992 deadline.
December 18, 1992	The deadline passed, and the operator did not address the Division's requirements. No formal notification or explanation was received from the operator.
January 7, 1993	Division staff mailed copies of Reclamation Contract and surety bond forms to Mr. Hank Regulski of East Carbon Contractors, Inc. (ECC).
January 8 & 15, 1993	Division staff spoke to representatives for the operator (Mr. Hank Regulski and Mr. Harold Marston) regarding the posting of surety and the formal submittal of information explaining the delay beyond the December 18th deadline.
January 22, 1993	The Division issued Mr. Marston a Notice of Agency Action (NAA). The NAA indicated that the Division was petitioning the Board of OGM to take action against the operator. The NAA set a hearing date of Feb. 24, 1993.
February 3, 1993	Mr. Marston was served a Board Order to Show Cause and summons requiring him to appear before the Board of Oil, Gas and Mining at the February 24, 1993 hearing.
February 4, 1993	The Division telefaxed another surety bond form to Mr. Hank Regulski of ECC per his telephone request that same day.
February 5, 1993	Mr. Harold Marston met with Holland Shepherd, of the Division staff, to discuss the Pagano Clay Project NAA. Mr. Marston wanted to know if submittal of the surety and plan would be sufficient to resolve the Board issue. Mr. Shepherd informed Mr. Marston that our receipt of the required information would probably look favorable prior to the Board hearing, but the Division could not guarantee dismissal of the hearing.
February 10, 1993	The operator submitted a reclamation contract and surety to the Division. However, the reclamation contract and surety identified

East Carbon Constructors as the operator. The operator of record, is actually Jay Pagano Estate. The Division is unable to accept a surety and contract which does not identify the correct operator.

February 17, 1993

Holland Shepherd received phone call from Mr. Marston inquiring about the status to the Surety and addressing the requirement to submit a reclamation plan.

February 17, 1993

The Division telefaxed and later mailed Mr. Hank Regulski, of East Carbon Constructors, a letter discussing the reclamation contract and surety. The Division letter indicated that ECC was not the operator of record, so the surety and contract could not be accepted. The letter indicated that ECC would need to formally file a large mine notice with the Division, before we could accept the present reclamation contract and surety. Another option would be to modify the reclamation contract form to list Jay Pagano Estate as the designated operator instead of ECC.

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Mr. Harold Marston met with Division staff members Holland Shepherd and Wayne Hedberg to discuss submittal of the surety, reclamation contract, and reclamation plan. Mr. Marston submitted the reclamation plan. Mr. Marston indicated that he was unwilling to sign the new reclamation contract and surety form, which specified him as the designated operator. We also informed Mr. Marston that the Board Hearing would go forth and that representation by his attorney would be advised.

(additional chronology 11/9/94)

February 17, 1993

Received faxed copy of Draft Reclamation Plan - Pagano Clay Site. Attached were copies of BLM & DOGM seed mix recommendations.

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Received letter from Harold Marston's atty (Nick Sampinos) regarding Summons and Order to Show Cause. - Substantial amount of reclamation work already done. As soon as snow melts, reclamation should be able to be completed. ECCI has at all times been the operator - not Pagano Estate.

February 18, 1993

Received formal document response to Order to Show Cause from Marston's Attorney.

February 18, 1993	Received reply to 2/17/93 letter. Would like name change on Reclamation Contract back to Pagano Estate. ECC will still post surety.
March 8, 1993	Board issued "Findings of Facts and Conclusion of Law and Order." - Pagano Clay Estate. Order consists of 1) immediately cease operations; 2) submit reclamation plan and surety; 3) complete reclamation by 6/1/93; 4) not sufficient evidence that Mr. Marston acted knowing & willfully against the Act; and 5) Board retains jurisdiction over all matters covered by this Order.
March 17, 1993	Received mine site plan - ECDC Clay Mine from Creamer and Noble Engineers.
March 22, 1993	Received letter from Creamer and Noble Engineering correcting portions of ECDC plan.
April 5, 1993	Received seed bag tags for Wellington Clay Pit. Received copy of invoice for WRR reclamation work performed 3/30/93.
April 13, 1993	Letter faxed and also sent to ECDC - Initial Review of ECDC Clay mine plan. Deficiencies were stated.
April 13, 1993	Received Reclamation Contract and Surety from Jay Pagano Estate - \$3,700.
April 15, 1993	Received copy of letter to ECDC from Water Rights regarding a compliance inspection to verify planting of willow cuttings.
April 20, 1993	Letter sent to ECDC returning original Reclamation Contract and Surety bond due to updated and re-executed version of these documents received from Jay Pagano Estate for the \$3,700 surety.
April 20, 1993	Letter sent to Harold Marston sending final version of Reclamation Plan. "If satisfactory sign page 8 and return to DOGM".
April 20, 1993	Received letter from Creamer and Noble Engineering addressing deficiencies in 4/13/93 review letter. Page 2 and page 10 of LMO attached.
April 30, 1993	Draft Tentative Approval letter for ECDC hand delivered to Harold Marston.

May 12, 1993	Site inspection of ECDC project to evaluate reclaimed portions and look at areas proposed for future development. Visit addressed outstanding issues - 1) Mr. Marston sign a reclamation plan for Pagano Clay Project; 2) need SMO if operating before LMO is approved; and 3) need \$20,600 surety for ECDC Mine.
May 17, 1993	Received copy of compliance inspection letter from Water Rights to ECDC. They said ECDC was now in compliance and no further work under this permit required.
May 17, 1993	Tentative Approval letter sent to ECDC for Large Mining Operation.
May 19, 1993	Received SMO from ECDC Environmental for ECDC mine.
May 26, 1993	Notice of Intent to Issue Tentative Approval sent to newspapers for ECDC Mine.
May 26, 1993	Received Reclamation Contract and Surety from ECDC - \$20,600.
June 3, 1993	Copy of letter to Harold Marston from State Lands & Forestry. DOGM not to release \$3,700 until approval from them for reclamation of project on state lands.
June 8, 1993	Letter to Harold Marston granting Tentative Approval of Jay Pagano Estate plan.
June 15, 1993	Letter sent to ECDC, page 8 of Reclamation Contract was not signed by Surety Company. Returned original surety forms for signatures.
June 24, 1993	Board approves surety for ECDC mine at 18 acres, \$20,600.
June 30, 1993	Approval letter sent to Jay Pagano Estate for Pagano Clay's \$3,700 surety for portions of project not affected by ECDC.
July 13, 1993	Letter from RDCC regarding ECDC's LMO. RDCC had no comments.
November 1, 1993	Sent ECDC copy of approved and signed RC and surety forms for ECDC clay mine.
December 13, 1993	Request for 1993 annual report for ECDC.

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December 13, 1993	Request for 1993 annual report for Jay Pagano Estate.
January 25, 1994	1993 Annual Report for Pagano Clay - signed by Harold Marston - Stated reclamation is complete.
February 23, 1994	Faxed request for 1993 annual reports for ECDC Clay mine. Fax cover letter clarified different operations. ECDC and Pagano Clay.
February 28, 1994	1993 annual report for ECDC Clay mine - signed by Steve Noble. - Mine is active. Mine affected @10 new or additional acres (total disturbed acreage is 12).
October 14, 1994	Site inspection memo to file - Pagano Clay site. Portions of site has poor reclamation success. Sand & gravel operations (?) nearby appears to have overlapped what was once part of the Pagano Clay project.

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